

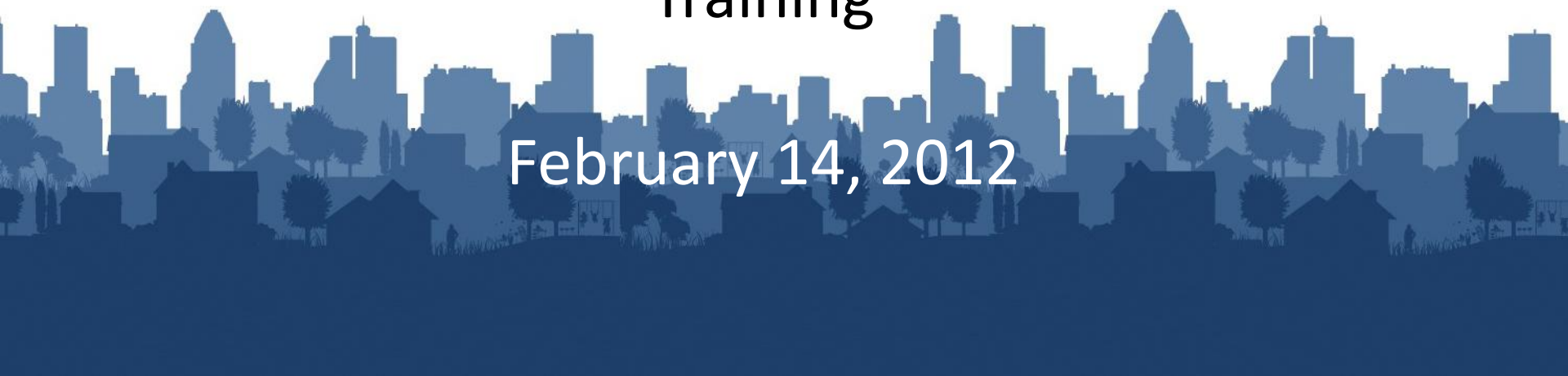


The Uniform Act

Acquisition, Relocation & Demolition

Disaster Recovery CDBG Administration
Training

February 14, 2012



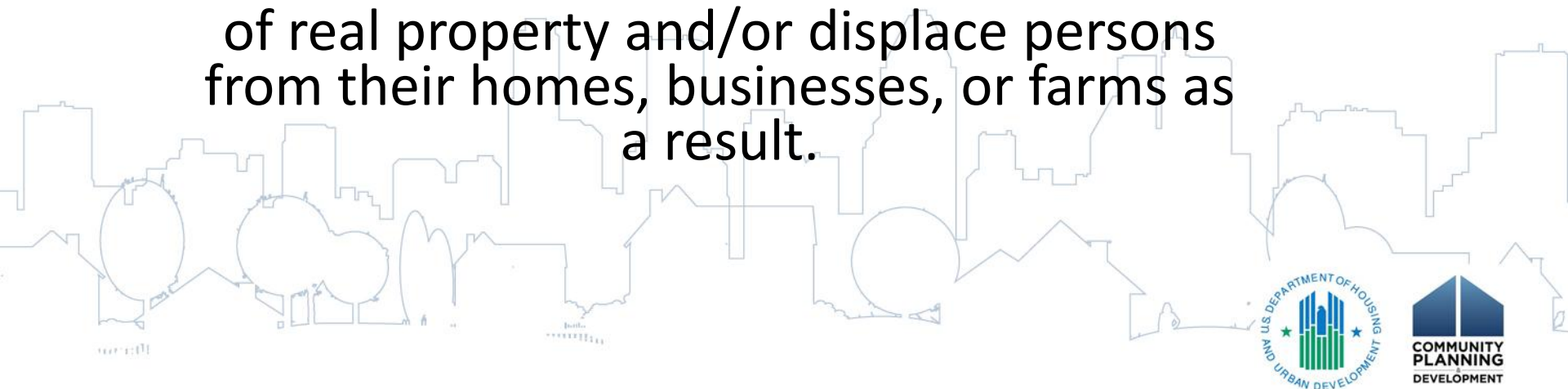
Uniform Act Overview

49 CFR 24

Protections and assistance to establish minimum standards for federally funded programs and projects that require the

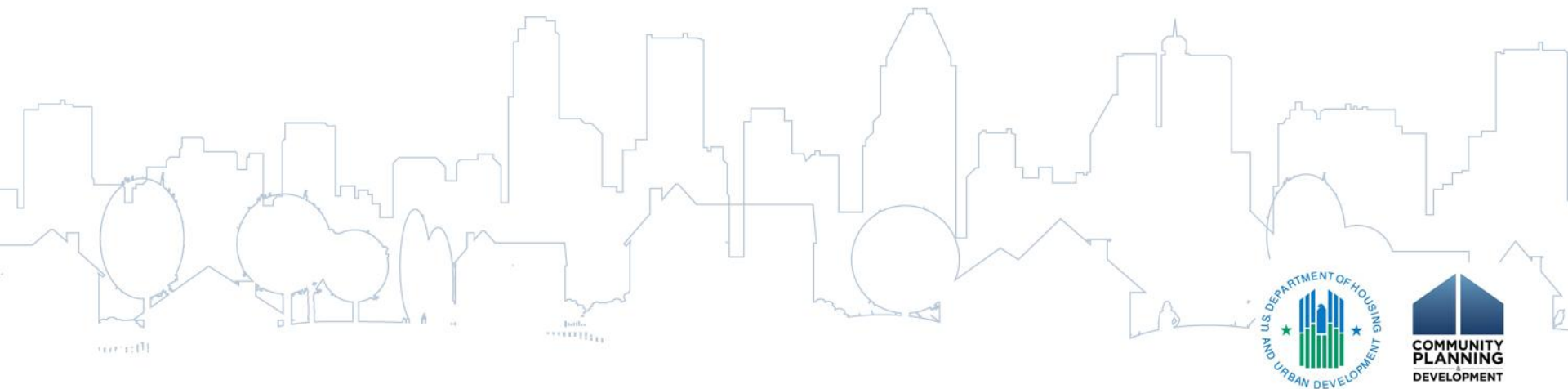
- **acquisition,**
- **rehabilitation, or**
- **demolition**

of real property and/or displace persons from their homes, businesses, or farms as a result.



Uniform Act Requirements

- Applies to all Federally funded projects funded in whole or in part with acquisition, rehabilitation or demolition in any phase.
- Uniform standards for administering acquisition and relocation projects.
- Notice requirements to all occupants timed in conjunction with proposed acquisition & federal funding.



What “Triggers” the URA?

“As soon as feasible” a person scheduled to be displaced...with assistance anticipated in any phase of an undertaking = General Info Notice

Documented legal intent of project & funding - Project pre-application/applications, Con Plan, City Council resolutions, etc.

Specific Notice of Relocation Eligibility when...

- The “Initiation of Negotiations” for the project occurs (based on several possible dates per regulations), or
- Upon issuance of a “Notice of Intent to Acquire”, or
- Actual acquisition, rehab, or demo of a property.



URA Issues in Planning Disaster Recovery Activities



Flood Buyout Programs

Project costs (and success) determined in part by if buyouts are optional or mandatory.

Relocating an area by requiring buyouts may be effective in eliminating future claims but persons are not required to relocate to specific new specific location, most costly option.

- Owner-occupants ARE entitled to relocation payments under URA.

Voluntary buyouts may create inefficiencies in providing public services & unappealing neighborhoods for remaining residents, i.e. gap-toothed communities, lack of demand for retailers.

- Owner-occupants NOT entitled to relocation payments under the URA.



Drainage Easements/Retention Basins

Typically are site specific due to design & engineering requirements – consider all potential areas that could complete project to minimize acquisition & relocation costs.

- Notice to owner & occupants is required as soon as feasible once a site is identified & proposed for a federally-assisted project.
- May require one-for-one replacement if units in habitable condition are acquired and demolished, in addition to relocation payments.



Mobile Homes

Mobile home communities are often populated with a mix of owner & tenant-occupied units that usually must be valued & acquired separate from underlying real estate.

- Acquisition of land as income-producing property, according to highest and best use.
- Mobile homes – Are they realty or personal property in my State? Agencies take title & possession of realty & pay to move personalty? Can it be physically moved?
- May involve acquisition payments to owners for units in addition to rental assistance payments for pad rent.



Rehabilitation of Damaged Dwellings

Owner-occupants who apply for rehab of their home DO NOT meet the URA definition of “Displaced Person”.

- Some grantees use the “Optional Relocation Policy” provisions under CDBG regs to craft uniform policies for providing minimum levels of assistance, i.e. short-term storage, housing costs during repairs.
- Expenditures made to owner-occupants for relocation are INELIGIBLE unless otherwise covered under an acceptable Optional Relocation Policy.
- Not covered by any time-lengths of displacement due to federally-assisted rehab, i.e. 12-months for temporary relocation.



Rehabilitation of Damaged Dwellings

Lawful tenants are always eligible for temp or permanent relocation payments - same as regular CDBG program.

- For occupied multi-family properties, temporary relocation compliance is extensive –
 - General Information Notices at time of submission of an application, “as soon as feasible”.
 - Notices of Eligibility/Ineligibility at execution of the grant agreement.
- 12 month maximum duration of temporary move, payment of moving expenses and increased monthly housing costs.
- Demolition always results in permanent displacement.
- Not much difference in these activities than under regular program.



Economic Development

- Acquisition of retail, hospitals, etc. can require specialized appraisers experienced in valuing disaster-impacted properties for justification of CDBG expenditures – even though appraisals are not required ***by the URA*** in voluntary acquisitions.
- Infrastructure improvements for access/utilities can trigger acquisition compliance when land is acquired in connection with the project regardless if the purchase is privately funded.
 - Interconnectedness - one would not occur but for another.



Joint Federally-Assisted Projects

Where a project may be carried out with multiple federal sources, i.e. FEMA and HUD, VA and HUD, etc. allow for extra time to resolve differences in URA interpretations & policies.

- FEMA's Hazard Grant Mitigation Program has different compensation rules for owner-occupants than are calculated under the URA.
- Consultants may be more familiar with FEMA rules than HUD, different program regulations with inconsistent milestones for action.



What is Acquisition & Which Approach Must We Use?



What is an Acquisition?

Conveyance of fee simple rights in real estate from one legal entity to another.

- Donations are a type of acquisition whereby the seller simply forgoes compensation – this is still an acquisition!
- Permanent easements & other less-than-full fee interests are subject to acquisition requirements.
- Under CDBG regs, long-term leases of 15 years or greater are considered acquisitions for URA purposes.
- May occur between two affiliated entities. i.e. purchase & sale agreements with multi-family rehab/tax credit deals.



2 Paths to Acquisition

Acquiring agency must determine which approach applies to the project BEFORE starting any acquisition activity.

- Once an agency starts down the “voluntary” acquisition path – the use of eminent domain is off the table as a potential tool.
- If an agency conducts its acquisition using the “involuntary” approach it is NOT committed to using eminent domain but may retain that option as last resort.
- Acquisitions by one govt. agency from another probably exempt if acquiring agency cannot condemn from the other.
 - Who is purchasing the property matters!



“Voluntary” Acquisitions

For acquiring agencies with eminent domain authority, ALL of the following:

- No specific site is needed and any of several properties could be acquired for project purposes; and
 - The property is not part of an intended, planned or designated project area where other properties will be acquired within specific time limits; and
 - The agency informs the owner in writing of the property's market value prior to making an offer; and
 - The agency also informs the owner in writing that the property will not be acquired, through condemnation, if negotiations do not reach an amicable agreement.
- **Has nothing to do with if the seller is or is not agreeable to the sale in determining what the acquiring agency has to do for compliance.**



“Voluntary” Acquisitions

For agencies without eminent domain authority, ALL of the following:

- The agency notifies the owner in writing of the property's market value; and
- The agency notifies the owner prior to making an offer, that it will not acquire property if an amicable settlement cannot be reached.
 - If tenants will be displaced, the tenants are ALWAYS provided relocation assistance.
 - Under “voluntary” acquisitions, an owner is NOT eligible for relocation payments whereas they ARE REQUIRED for “involuntary” acquisitions.



Valuation

Appraisals may be based on either pre-flood or post-flood values.

- Grantee must uniformly apply whichever valuation method it chooses.
- Written appraiser minimum qualifications & procedures are required for involuntary acq's.
- Determine your valuation & acquisition processes PRIOR to commencing site-specific acquisition tasks, i.e. written procedures & standards.
 - Acquisition type impacts costs & timeframe!



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Relocation Waivers & Alternative Requirements CPD Notice 08-02

Flexibility...Upon Request



30% of Household Income

URA provisions requiring financial assistance sufficient to reduce the displaced person's post-displacement rent/utility cost to 30% of household income may be waived.

Provided tenants have been paying rents in excess of 30% of household income without demonstrable hardship, rental assistance payments to reduce tenant costs to 30 % would not be required.

- ***Before using this waiver, the state must establish a definition of “demonstrable hardship.”***



30% of Household Income

HUD would consider the state's definition of “demonstrable hardship” & application for this waiver on a consistent basis across programs or projects.

Potential cost savings in utilizing this alternative should be weighed against the ability to complete project's in a timely manner & potential perception of disparity resulting in relocation appeals.



“Comparable” Dwelling

“Comparability” requirements can be waived to allow all or a portion of a replacement housing payments to a displaced tenant by offering a tenant-based rental assistance (TBRA) housing subsidy (e.g., Section 8 voucher) ***provided*** the tenant is also given referrals to suitable, available rentals where the owner will participate in the TBRA program & the period of authorized assistance is at least 42 months.

- Consider for use where TBRA program subsidies may be available but funds for cash relocation assistance is limited.



Residential Moving Payments

Suspension of the requirement to offer a person the option to receive a “moving expense & dislocation allowance” based on the FHWA fixed schedule ***provided*** that the grantee establishes & offers moving expenses under a schedule that is reasonable & takes into account the number of rooms in the dwelling, if the person owns & must move the furniture, & expenses described in 49 CFR 24.301.



One-For-One Replacement Demolition of Dwellings

One-for-one replacement requirements may be waived for low- and moderate-income dwelling units:

- (1) damaged by the disaster,
- (2) for which CDBG funds are used for demolition,
- and

(3) not suitable for rehabilitation.

- Occupied properties are never exempt, if otherwise subject to one-for-one replacement.



104(d) Relocation

Section 104(d) relocation requirements may be waived to the extent they differ from the URA & its regulations related to disaster recovery housing activities assisted by the funds covered in an approved Action Plan.

- Eliminates disparity between persons displaced by projects funded by other federal agencies not subject to 104(d).
- Simplifies project administration since only one replacement housing calculation is required.

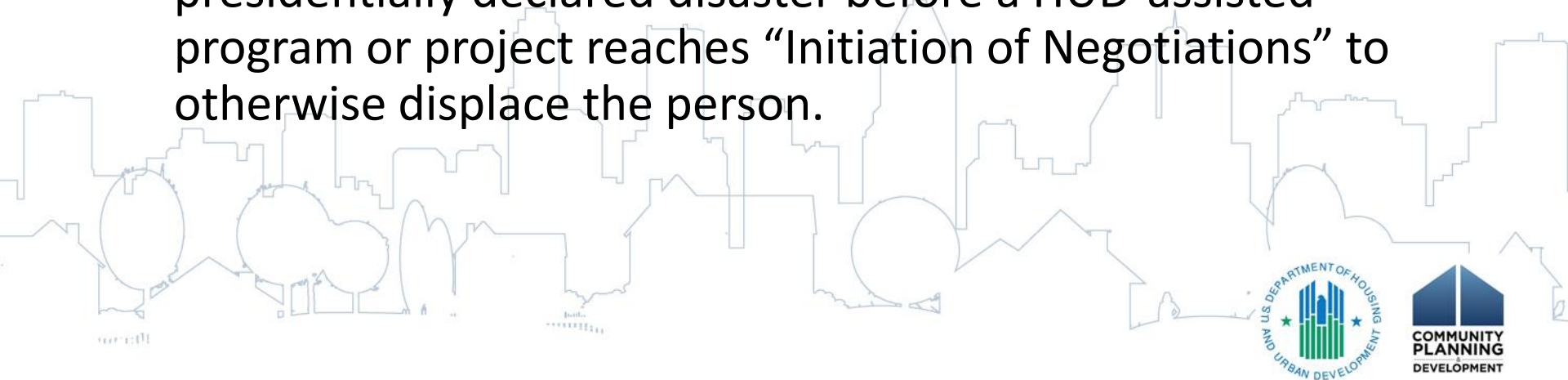


Section 414 Waiver

Section 414 of the Stafford Act provides:

“Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the [Uniform Act] shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such [Uniform Act].”

Households may be forced to move as a result of a presidentially declared disaster before a HUD-assisted program or project reaches “Initiation of Negotiations” to otherwise displace the person.

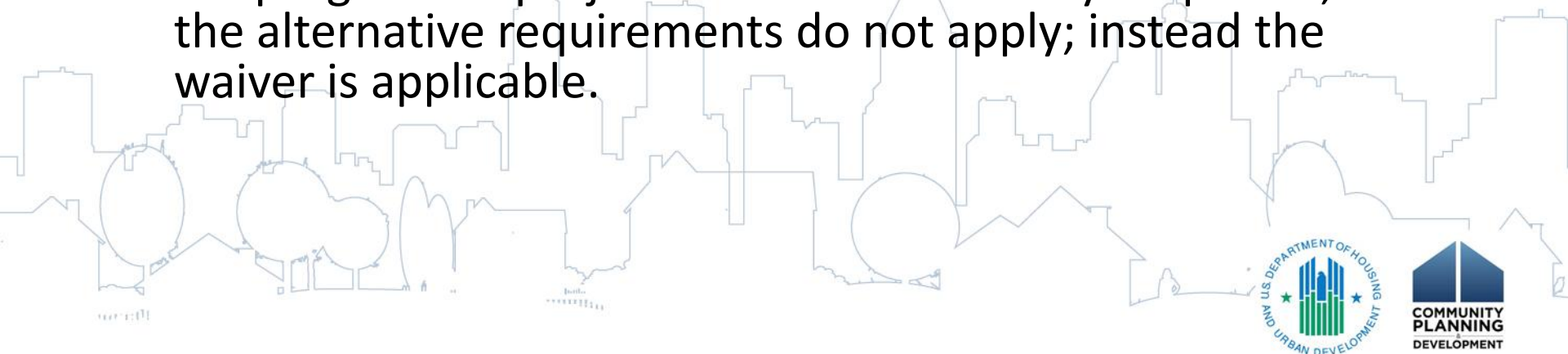


Section 414 Waiver

There is no statute of limitations or other timeframe applicable to Section 414 of the Stafford Act.

HUD may allow a re-housing plan for a covered program or project, as determined on a program or project-wide basis, if the Alternative One (payment of assistance at URA required levels) substantially conflicts with recovery purposes.

For programs & projects initiated after a 3-year period, the alternative requirements do not apply; instead the waiver is applicable.



Disaster CDBG & Other Federal Funds

All other federal sources of funding used in projects where acquisition, rehabilitation or demolition will occur are subject to standard URA regulations.

Use of regular CDBG & HOME funds in a mixed finance project will mitigate any waivers or alternative requirements attributed to supplemental CDBG funds.



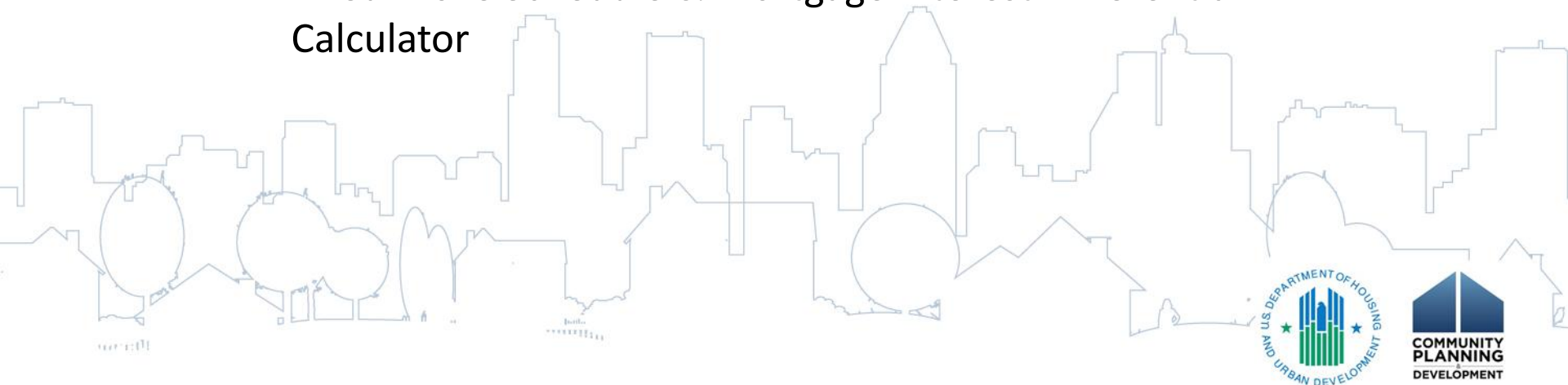
URA & 104(d) Resources

www.hud.gov/relocation

- HUD Handbook 1378 – policies, notices & claim guideforms
- Acquisition & Relocation brochures
- URA vs. 104(d) overviews & comparison chart
- Planning & Budgeting Guide for HUD-Funded Projects
- Contact your Regional Relocation Specialist

www.fhwa.dot.gov/realestate/index.htm

- Free online 6-hour URA training course & interactive tutorial
- Uniform Act Frequently Asked Questions & Answers
- Fixed Move Schedule & Mortgage Interest Differential Calculator



Open Q & A

THANK YOU FOR COMING!

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